

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2016

Coram

The Honourable Mr.Justice C.T.SELVAM

TR.CMP.No.196 of 2016

&

C.M.P.No.5484 of 2016

P.Mangalambikeswari ...Petitioner/Respondent

Vs.

R.Sivachandran ...Respondent/Petitioner

Prayer: Petition has been filed Under Section 24 of the Code of Civil Procedure code to withdraw the H.M.O.P.No.46 of 2014 pending on the file of the Principal Sub Court, Krishnagiri and to transfer the same to the file of the Sub Court, Salem.

For Petitioner : Mr.C.Prabhakaran

O R D E R

This revision has been filed seeking transfer of proceedings in H.M.O.P.No.46 of 2014 pending on the file of the Principal Sub Court, Krishnagiri to the file of the Sub Court, Salem.

2. Heard learned counsel for petitioner. Though respondent has been served notice, there is no representation on his behalf.

3.Learned counsel for petitioner submits that the petitioner and respondent are wife and husband. The couple were married on 13.07.2005. The petitioner was driven out of her matrimonial home during the month of August 2005 and had chosen to live with her aged parents. Since she has no income, she filed a suit in O.S.No.20 of 2010 before the Family Court, Salem, seeking maintenance in a sum of Rs.8,000/- per month. After contest, the suit was decreed in favour of the petitioner on 08.07.2015. Respondent had not paid any sum towards maintenance as per the order dated 08.07.2015. Instead, the respondent preferred H.M.O.P.No.46 of 2014 before the Principal Sub Court, Krishnagiri, seeking restitution of conjugal rights, by wrongly informing the petitioner's address, as a result of which, the proceedings were dragged and petitioner eventually received

notice only in the month of February 2016. Though the parties have parted as early as in the year 2005, the said H.M.O.P.46 of 2014 was filed by the respondent for restitution of conjugal rights only on 29.04.2014. Learned counsel for petitioner submits that H.M.O.P.No.46 of 2014 is filed only to avoid payment of maintenance to the petitioner and that the petitioner who is residing with her aged parents in Salem, faces great difficulty in being required to travel to Krishnagiri for every hearing, the to and fro distance being about 300 kms. Petitioner having no means of income would be unable to bear the expenses for attending the hearings by way of travelling and accommodation and hence, prays for transfer of H.M.O.P.No.46 of 2014 to the file of the Sub Court, Salem.

4.On consideration of the submissions made by learned counsel for petitioner, this Court is inclined to allow the petition and accordingly, the transfer Civil Miscellaneous Petition is allowed. The proceedings in H.M.O.P.No.46 of 2014 is transferred from the file of the Principal Sub Court, Krishnagiri to the file of the Sub Court, Salem. Consequently, the connected Miscellaneous Petition is closed. No costs.

-s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

DP

To

1.The Principal Subordinate Judge,
Krishnagiri.

2.The Sub-Judge
Salem.

+1 cc to Mr.C.Prabhakaran Advocate sr.29944

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